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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,289	06/24/2003	Heinrich Hofmann	P/22-230	3250
2352	7590	03/18/2005	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			RODRIGUEZ, PAMELA	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/603,289

Applicant(s)

HOFMANN ET AL.

Examiner

Pam Rodriguez

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 21, 2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,565,159 to Kosak.

Regarding Claim 1, Kosak discloses most all the features of the instant invention including: a bearing comprising a fixed part (see Fig. 11) capable of being coupled to a brake caliper (see the bosses at element 12 in Fig. 1), a wheel carrier 12, connecting elements 33 connecting the fixed part of the wheel bearing to the wheel carrier; and at least one projection 46 integrated with one of the fixed part, the wheel carrier and the connecting elements.

However, Kosak does not specifically disclose that 1) the fixed part is coupled to a brake caliper and 2) that the projection transmits to the wheel carrier a torque acting in the fixed part during braking.

Regarding the fixed part being coupled to a brake caliper, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have coupled the fixed part of Kosak to a brake caliper in order to form a stronger more secure wheel bearing assembly that can withstand the forces of braking of the wheel. By constructing the fixed part of the wheel bearing of Kosak to be coupled to a brake caliper, the forces exerted on the caliper during braking can be better absorbed and dissipated by the wheel bearing. Note, also that Figure 1 of the Kosak reference discloses bosses at wheel carrier 12 which appear to indicate its connection to a braking device such as a brake caliper.

Regarding the projection transmitting torque to the wheel carrier during braking, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the projection of Kosak so that it transmits to the wheel carrier a torque acting in the fixed part during braking again to better dissipate and absorb the forces exerted during a braking application of the wheel. The projection 46 of Kosak certainly is capable of transmitting at least a small amount of torque to the fixed part of the structure and consequently, this function could be performed during braking.

Re claim 2, see Fig. 8.

Re claim 3, see bolt 30.

Re claim 4, see Fig. 7.

Re claim 5, see col. 3 lines 39-41.

Re claim 6, at least the bosses 12 shown in Figure 1 are also readable as flanges.

### ***Response to Arguments***

5. Applicant's arguments filed January 21, 2005 have been fully considered but they are not persuasive.

Regarding applicant's arguments directed towards the Kosak reference not being directed to the general field of braking or brake calipers and having no structure structured to couple to a brake caliper, the examiner contends that at least the bosses shown in Figure 1 of the Kosak reference at wheel carrier 12 suggest that a brake

caliper structure could be attached to the wheel carrier at those points. Brake calipers are typically attached to wheel carriers in a similar fashion and thus this type of attachment is not beyond the realm of one of ordinary skill in the art to employ. Thus, the mere existence of those bosses in Figure 1 would suggest that a brake caliper could be present in the wheel bearing assembly.

Regarding applicant's arguments directed towards the projection 46 of Kosak and the reference not mentioning that the it transmits to the wheel carrier a torque acting in the fixed part during braking, the examiner contends that this type of torque may certainly be present in the reference. In response to applicant's remarks to the contrary, the projection 46 of Kosak certainly is capable of transmitting at least a small amount of torque to the fixed part of the structure and consequently, this function could be performed during braking. Therefore, at least to some extent, this claimed torque could be present in the wheel bearing assembly as now outlined in the 103 rejection above.

In summary, applicant's Claim 1 does not recite any particulars of a brake caliper or brake assembly that would preclude the wheel bearing assembly of Kosak from being utilized as rejected above. The structure of the wheel bearing recited in the claim merely requires that a fixed part, a wheel carrier, connecting elements, and a projection be present in the wheel bearing structure itself with these components being able to form part or act a certain way during a braking application. And since inherently, the wheels of a vehicle will be braked at some point, the examiner maintains that it would

not be beyond the realm of one of ordinary skill in the art to employ the wheel bearing assembly in conjunction with a brake caliper and a braking application.

It is for these reasons that the above rejections have been maintained.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 703-308-3657 and as of April 11, 2005 will be 571-272-7122. The examiner can normally be reached on Mondays 5 am -3:30 pm and Tuesdays 5 am -11 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Bucci can be reached on 703-308-3668 and as of April 11, 2005 on 571-272-7099. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pam Rodriguez  
Primary Examiner  
Art Unit 3683

3/14/05

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